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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/753,848
Filing Date: January 08, 2004
Appellant(s): TRABADA ET AL.

Oleg F. Kaplun
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/07/2011 appealing from the Office action mailed 10/15/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1-8, 10-13, 22, 24, and 25.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner:

The 35 USC 103 rejection of claims 1-5, 7, 10-12, and 13 over Richter (EP 0,976,417 A1) in view of Cohen et al. (US 5,167,239) and Middleman et al. (US 7,169,160 B1).

The 35 USC 102 rejection of claim 8 over Richter (EP 0,976,417 A1) in view of Cohen (US 5,167,239) and Middleman (US 7,169,160 B1) as applied to claim 1 above, and further in view of Kindlein (US 7,229,401 B2) or Ziegler et al. (US 6,971,990 B2).

The 35 USC 103 rejection of claims 22, 24, and 25 over Ritcher (EP 0,976,417) in view of McAlister et al. (US 2002/0065523), Cohen (US 5,167,239), and Middleman (US 7,169,160 B1).

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

EP 0,976,417 A1	RITCHER	7-1999
US 7,229,401 B2	KINDLEIN	6-2007
US 6,971,990 B2	ZIEGLER ET AL.	12-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richter (EP 0,976,417 A1) view of Kindlein (US 7,229,401 B2) or Ziegler et al. (US 6,971,990 B2).

Ritcher, as discussed in paragraph 3 and incorporated here by reference, discloses a modular device driven by a drive mechanism over a guide track. The drive mechanism comprises a motor that engages the guide track to advance the modular device along the guide track.

Ritcher does not specifically disclose the drive mechanism as a threaded member that rotationally engages the guide track. Kindlein, as shown in Figure 6, discloses a moveable needle advanced and retracted within a housing due to moveable and interacting wheels. Although not specifically shown, it would have been obvious for the wheels to comprise threaded gears for more accurate movement. Zeigler et al. (hereinafter Ziegler) also shows rotational movement between threaded gears (138, 140, 134, etc.) to advance an object (Figures 1 and 5). As shown in Figure 5, the threaded gears form a threaded hole that interacts with gear members (542). Additionally, Ritcher discloses an electric motor to move the modular device. Merely replacing the electric motor with a mechanical action simplifies the device and allows it to safely enter a patient. Since a drive mechanism utilizing gears to move an object along a track is well known in the art, as taught by Kindlein and Ziegler, it would have been obvious to one of ordinary skill in the art at the time of the invention for the drive mechanism of Ritcher to be simplified into a threaded gear mechanism.

(10) Response to Argument

Appellant argues that neither Kindlein nor Zeigler disclose a motor rotatable about a guide track. Specifically, Appellant argues that instant claims require a motor

that rotates itself around the guide track while Kindlein and Zeigler only teach elements or gears that rotate within the motor.

However, the claim is not limited to this narrow embodiment. Claim 6 recites wherein the "drive mechanism includes a threaded portion for engaging a contact surface of the guide track and rotating about the guide track". The verbs "engaging" and "rotating" apply to the noun "threaded portion" in the claim limitation. Therefore, it is the Examiner's position that a drive mechanism comprising a threaded portion element and wherein this threaded portion rotates about the guide track overlaps the instant claims.

Additionally, the instant specification does not limit the term "rotating" to the entire motor drive mechanism. Paragraph [0013] of the specification teaches wherein gears (130) rotate around the guide track to move the device (110) forward or backward. This rotation of the motor gears with respect to the guide track also overlaps the claimed rotatable about the guide track. Paragraph [0024] teaches the embodiment having gears (230a, 230b) rotatable around the track. Therefore, the specification also uses the term "rotating" to refer to elements or gears that rotate within the motor.

Both Kindlein and Zeigler show one element rotating with respect to another to produce motion. Kindlein teaches motor (31) as rotating with respect to needle (10) to move the needle forward and backward (column 8, lines 45-60). Therefore, the motor (31) is rotating about the needle since it is rotating with respect to the needle. Zeigler teaches rollers (134) as rotating with respect to bladder (104) to move the device forward and backward (column 5, lines 15-45). Similar to Kindlein, the rollers are

rotatable about the bladder. Therefore, both Kindlein and Zeigler teach a motor gear rotatable about a guide track as claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

10/20/2011

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